

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Establishment of a Public Purpose Program  
Surcharge Pursuant to Assembly Bill (AB) 1002.

Rulemaking 02-10-001

**ADMINISTRATIVE LAW JUDGE RULING DETERMINING ISSUES  
AND SCHEDULE FOR PHASE TWO**

The Assigned Commissioner's Ruling issued April 22, 2003, stated that Phase Two of this proceeding would address public interest research and development (R&D) issues , and would set a schedule for testimony, hearings and briefs. This ruling addresses these matters.

The issues to be addressed by parties participating in this phase of the proceeding are listed in Attachment A. Parties have previously discussed some of these issues in comments and reply comments provided November 12, 2002, and November 27, 2002, respectively. However, since these issues will now be addressed through evidentiary hearings that will include cross-examination, these issues require testimony and reply testimony.

As evidentiary hearings are required, ex parte communications are prohibited in Phase Two, except as provided in Rule 7(c) of the Commission's Rules of Practice and Procedure.

Any requests for data or information (data requests) should be sent directly to the responsible party. Any disputes regarding data requests will be resolved consistent with Resolution ALJ-164, adopted September 16, 1992.

The following schedule is proposed for Phase Two:

Testimony on R&D Issues due	August 15, 2003
Reply Testimony on R&D Issues due	September 5, 2003
Evidentiary Hearings on R&D Issues	September 24-26, 2003
Opening Briefs due	October 15, 2003
Reply Briefs due	October 29, 2003

**IT IS RULED** that:

1. The issues to be addressed in Phase Two of this proceeding are listed in Attachment A.
2. Ex parte communications in Phase Two of this proceeding are prohibited, except as provided in Rule 7(c) of the Commission's Rules of Practice and Procedure.
3. The proposed schedule is set forth in this ruling.

Dated June 3, 2003, at San Francisco, California.

/s/ BRUCE DeBERRY  
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Bruce DeBerry  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge Ruling Determining Issues and Schedule for Phase Two on all parties of record in this proceeding or their attorneys of record.

Dated June 3, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

## **Attachment A**

### **Public Interest Gas Related Research and Development (R&D) Issues:**

#### **A. Definition**

1. What is the appropriate definition of “public interest research and development authorized by Section 740 and not adequately provided by the competitive and regulated market,” specified in Pub. Util. Code § 890(a)?
2. Does the definition of “public interest “research and development presented in the Working Group Report<sup>1</sup> meet the definition of “public interest” under Pub. Util. Code § 890(a)?

#### **B. Administrator**

1. Should the utilities administer R&D?
2. Should a non-utility entity administer R&D?
3. What criteria should be used by the Commission to select an administrator for R&D?
4. What criteria should the R&D administrator use to select projects to undertake?
5. How should the R&D administrator evaluate the completion of selected R&D projects?
6. How should the R&D administrator determine that funds have been spent appropriately and in a cost-effective manner?
7. What are the public benefits of allowing the utilities oversee R&D projects?

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<sup>1</sup> “Working Group Report on Public Interest RD&D Activities,” submitted in R.94-04-031, I-94-04-032 on September 6, 1996.

**Attachment A**

8. What are the disadvantages of allowing the utilities oversee R&D projects?
9. What are the public benefits of allowing a non-utility administrator oversee R&D projects?
10. What are the disadvantages of allowing a non-utility administrator oversee R&D projects?
11. How should the administrator's overheads and other expenses be recovered (e.g., by utility ratepayers funded through the PPP gas surcharge, etc.)?
12. How should the Commission evaluate the performance of a R&D administrator?
13. Should the administrator have the discretion to determine what projects should be funded?
14. Should the Commission or Energy Division approve R&D projects for funding?
15. What levels of R&D overhead or administrative costs are reasonable and should such costs be recoverable through the Gas Consumption Surcharge Fund?
16. What types of accounting procedures should be established to track R&D spending (e.g. project specific, etc.) and overhead?
17. How can the Commission ensure that R&D funds are being spent to achieve their maximum benefit at minimum cost?

**C. Proposed R&D Projects:**

1. How should R&D funding levels be determined?
2. What specific R&D projects should be undertaken and funded through the Natural Gas Public Purpose Program Surcharge?

**Attachment A**

- a. Describe proposed project in detail including objectives, benefits, etc. (Identify if project is under consideration in another Commission proceeding.)
  - b. Explain why it is in the “public interest”.
  - c. What is the approximate cost of each project, including overhead?
3. How should R&D projects be prioritized for funding?
4. Should the Commission establish an authorized annual budget for R&D projects, if so, how should it be established (e.g., based upon proposed R&D projects, percentage of revenues, etc.)?
5. What type of cost/benefit analysis should be conducted to determine whether a R&D project should be funded; how can the benefits be measured?
7. How can the Commission determine if the proposed benefits of the R&D project were achieved?
8. Under what grounds should spending for R&D projects be disallowed (e.g., project exceeds authorized budget, cost/benefit analysis, etc.)?
9. What policy should the Commission adopt for R&D projects which have commercial applications?
10. How can the Commission ensure that R&D projects are not duplicative or being undertaken by other entities?
11. What types of R&D coordination activities should the Commission employ to prevent duplicative activities?
12. What procedures should be in place if expense for an R&D project exceeds its budget or authorized spending limit?

**Attachment A**

13. Is there a clear distinction between gas-related R&D and electric public purpose R&D (i.e., can gas related R&D projects impact electric related activities)? If not, does this raise issues that the Commission should be concerned about?

**D. Reimbursements for the Gas Consumption Surcharge Fund (Fund).**

1. What types of procedures should be in place for administrators (utility or 3rd party) to be reimbursed from the Fund?
2. When should administrators be reimbursed from the Fund (e.g., at the completion of the R&D project)?

**E. R&D Program Costs:**

1. Have the utilities removed public interest R&D costs from their rates?
2. How should R&D costs be treated in the development of the surcharge rate?